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C O N F I D E N T I A L THE HAGUE 002157

SIPDIS

E.O. 12958: DECL: 08/03/2015

TAGS: [PREL](#) [PHUM](#) [PGOV](#) [KISL](#) [KPAO](#) [NL](#)

SUBJECT: NETHERLANDS/GUANTANAMO: DUTCH REMAIN TROUBLED BY  
LACK OF ACCESS FOR UN SPECIAL RAPORTEURS

REF: A. STATE 142348

[1](#)B. STATE 139288

[1](#)C. BLAKEMAN-PROSPER E-MAILS

Classified By: DCM CHAT BLAKEMAN FOR REASONS 1.4(B) AND (D).

[1](#)1. (C) SUMMARY: The Dutch remain concerned about the lack of access by UN special rapporteurs to Guantanamo. According to the senior Dutch MFA official dealing with Human Rights, the issue has become a "political problem" in the Netherlands and could complicate efforts to cooperate with the EU on human rights issues during the upcoming UNGA. The special rapporteurs' issue is a more immediate concern for the Dutch than their "philosophical difference" with the U.S. over the interpretation of the Geneva protocols. END SUMMARY.

[1](#)2. (C) On August 3, DCM and POLCOUNS passed a non-paper containing ref A points on Guantanamo to Piet de Klerk (Special Ambassador for Human Rights), Anneka Adema (Director of the MFA's Human Rights Office) and Guillaume Teerling (Desk Officer in the Human Rights Office). Separately, Ambassador Sobel delivered the same points to Rob Swartbol, Prime Minister Balkenende's Chief Foreign Affairs advisor, on August 2. DAO and PD are similarly making these points available to key contacts in positions to influence debate and decision-making.

[1](#)3. In discussing Guantanamo with his MFA interlocutors, DCM noted that ref A text provided the most up-to-date information and official USG language on Guantanamo, and suggested that the MFA might find it useful in addressing concerns raised in Parliament and elsewhere. De Klerk agreed that having the latest USG information was helpful in terms of demonstrating "transparency." He stressed, however, that the Dutch remain troubled by the lack of access to Guantanamo by UN special rapporteurs. This specific issue had become a "political problem" domestically. Opposition figures in Parliament (most notably PvdA Foreign Policy Spokesman Bert Koenders) continued to raise the issue at every opportunity, and to cite it in questioning the basis of Dutch-U.S. military cooperation in Afghanistan. In response, DCM said that he had been in touch with S/WCI Prosper directly (ref c) and assured de Klerk that Dutch concerns were well understood and appreciated in Washington.

[1](#)4. (C) Adema volunteered that the issue of access for special rapporteurs was not only a domestic Dutch concern, but also a difficult issue for the EU. De Klerk added that, while he understood there had been no "hard promises" to admit the rapporteurs, he had personally received assurances last April that the USG would make a good-faith effort to address the EU's concerns in this area. If there is no obvious progress before the UNGA begins, he added, it would put the EU in a difficult position if some other party chose to force the issue in the Third Committee.

[1](#)5. (C) Noting that ref A points referred to visits to Guantanamo by the ICRC and others, including journalists, de Klerk asked rhetorically why the UN special rapporteurs should be excluded. In addition, many of the "abuses" reported by human rights organizations apparently occurred in the first year of Guantanamo's operation; if the situation had now improved (as it clearly has), then the rapporteurs would be able to document and report this fact. On balance, he concluded, providing access to the special rapporteurs could benefit the U.S. by enhancing its credibility on human rights issues, in addition to removing a sticky issue from Dutch and EU agendas.

[1](#)6. (C) Although of less immediate concern, de Klerk reiterated that the Dutch continue to have a "philosophical difference" with the U.S. over the interpretation of the Geneva protocols. In that regard, he asked whether recent press reports stating that the USG no longer considered the struggle against terrorism a "war" were accurate. Given the importance of the laws of war to the USG's legal arguments, he added, such a change in our public positions should not be taken lightly. DCM responded that we had received no official notification of any change in the U.S. position and cautioned against taking press speculation at face value. (Note: POL subsequently provided de Klerk's office with excerpts of the President's August 2 remarks referring explicitly to the "war on terror.")

BLAKEMAN